

**IN THE CLAIMS:**

Please amend the claims to read as follows:

Claim 1 (Currently Amended): An information recording apparatus for optically recording information onto an information recording medium having a plurality of information recording layers, comprising:

a detecting device which detects ~~for detecting~~ a position of a boundary portion between a recorded area ~~where the information has already been recorded~~ and an unrecorded area in the information recording layer, the recorded area being area where the information has already been recorded, and the unrecorded area being area where no information has been recorded;

a determining device which determines whether or not a tracking servo for recording the information onto an area in one information recording layer is affected by the boundary portion in the other information recording layer; and

an inhibiting device which inhibits ~~for inhibiting~~ recording the information onto the an area in the one information recording layer, in a case where the determining device determines that the tracking servo for recording the information onto the area in the one information recording layer is affected ~~the boundary portion in an information recording layer may affect a tracking servo for recording the information onto said one information recording layer.~~

Claim 2 (Currently Amended): The information recording apparatus according to claim 1, wherein

the determining device determines the effect of the boundary portion on the tracking servo, on the basis of at least any one of a track number of recorded tracks and one of unrecorded tracks of the other information recording layers ~~the inhibiting device includes a determining device for determining a degree of the effect of the boundary portion on the tracking servo on the basis of the number of recorded or unrecorded tracks of the other information recording layers~~ within a range of a diameter of a luminous flux in the boundary portion in the other information recording layer irradiated with a light beam for recording.

Claim 3 (Currently Amended): The information recording apparatus according to claim 1, further comprising a controlling device which controls a recording order for the respective information recording layers, wherein

when the determining device determines that the tracking servo for recording the information onto the area in the one information recording layer is not affected, the controlling device controls the recording order so as to start recording onto the other information recording layer when recording onto a whole area of one information recording layer is completed

~~An information recording apparatus for optically recording information onto an information recording medium having a plurality of information layers with a light beam for recording, comprising:~~

~~a recording device for recording the information onto the target information~~

~~recording;~~

~~a tracking error detecting device for detecting a tracking error on the basis of the  
light beam receiving signal;~~

~~a controlling device for controlling a recording order for the respective  
information recording layers so as to start recording onto another information recording  
layer when recording onto the whole area of the target information recording layer is  
completed.~~

Claim 4 (Currently Amended): The information recording apparatus according to claim [[3]] 1, wherein the controlling device controls the recording order so as to record information onto an adjacent information recording layer one by one toward a light beam emitting source from the information recording layer farthest from the light beam emitting source.

Claim 5 (Currently Amended): The information recording apparatus according to claim [[3]] 1, wherein the controlling device controls the recording order so as to record information onto an adjacent information recording layer one by one farther from a light beam emitting source from the information recording layer nearest the light beam emitting source.

Claim 6 (New): The information recording apparatus according to claim 2, wherein the determining device determines the effect of the boundary portion on the tracking servo, on the basis of whether or not a ratio of a track number of tracks of the other information recording layers included within the range of the diameter of the luminous flux is equal or less than a predetermined threshold.

Claim 7 (New): The information recording apparatus according to claim 6, wherein the threshold is set according to any one of the diameter of the luminous flux and a difference of a reflectance or a transmittance between the recorded area and the unrecorded area.